

Consumer Credit Sales:

Credit Grantor Notification Requirements & Maximum Rate Schedules

How does the S.C. Consumer Protection Code (SCCPC) define "Consumer Credit Sales"?

The SCCPC defines a consumer credit sale as a sale of goods, services or an interest in land in which (§37-2-104):

1. Credit is granted by a person who regularly engages as a seller in credit transactions.
2. The buyer is a person other than an organization.
3. The goods or services are purchased primarily for a personal, family or household purpose.
4. The debt is payable in installments or a credit service charge is made.
5. With the respect to a sale of goods or services the amount financed does not exceed \$72,500.

What is not included in a consumer credit sale?

1. A consumer credit sale does not include a sale where a seller allows the buyer to purchase goods or services with a lender credit card.
2. A consumer credit sale does not include a sale of an interest in land if the debt is secured by a first lien in real estate.

How is a creditor defined in the SCCPC?

The SCCPC defines a creditor as the person who grants the credit in a credit transaction or except as otherwise provided, an assignee of a creditor's right to payment, but use of the term does not in itself impose on an assignee any obligation of the assignor.

Who should file notifications?

All persons that make consumer credit sales, consumer leases or consumer loans in South Carolina, except for those businesses whose annual gross volume of sales does not exceed \$150,000 must file notifications with the South Carolina Department of Consumer Affairs (SCDCA). (§37-6-202)

What is the notification filing fee?

The notification filing fee is \$120 per location.

When is the notification filing due?

Notifications must be filed with the SCDCA within 30 days after commencing business in the state, and thereafter, on or before January 31 of each year.

When do notification filings become delinquent?

Notification filings and fee payments must be made by January 31 each year. Filings, which are 30 days delinquent must be accompanied by a penalty equal to the amount, indicated below:

- 31 to 45 days late 30% of delinquent fees
- 46 to 60 days late 45% of delinquent fees
- 61 to 75 days late 60% of delinquent fees
- 76 to 90 days late 75% of delinquent fees
- 91 to 100 days late 90% of delinquent fees
- 101 or more days late 100% of delinquent fees

Who should file a Maximum Rate Schedule (MRS)?

Every creditor intending to impose an annual finance charge in excess of 18% on credit sales (or consumer loans) must file a MRS with the SCDCA. (§37-2-305)

Where should the MRS be posted?

The MRS must be posted in a conspicuous place where credit sales are extended. The MRS must also contain a list of the maximum rate for finance charges that the creditor intends to impose for consumer credit transactions in each of the following categories of credit:

1. Unsecured credit sales
2. Secured credit sales other than real estate
3. Credit sales secured by real estate
4. Open-end revolving credit

What is the filing fee for MRS?

The filing fee is \$40 per location. Fees are due on or before January 31 of each year. All filing fees must be made payable and forwarded to the SCDCA.

What if you make credit sales and your gross sales exceed \$150,000?

If you make credit sales and your gross sales exceed \$150,000 a notification must be filed as well as a Maximum Rate Schedule if finance charges are in excess of 18% Annual Percentage Rate (APR).

What are the penalties for NOT filing a MRS?

The excess finance charges must be refunded to the consumer or for cases of excusable neglect, civil fines can be assessed up to \$5,000.

What are the disclosure and posting requirements for MRS?

All creditors making consumer credit sales in South Carolina are required by law to post a schedule showing the Maximum Rate of **CREDIT SERVICE CHARGES** expressed as the **FINANCE CHARGE** stated as **ANNUAL PERCENTAGE RATES** that the creditor intends to charge for various types of consumer credit transactions. The purpose of this requirement is to assist consumers in comparing the maximum rates that creditors charge. This helps to further the understanding of the terms of consumer credit transactions and help avoid the uninformed use of credit:

NOTE: Creditors are prohibited only from granting consumer credit at rates higher than those specified on the displayed Maximum Rate Schedule. A creditor may be willing to grant credit at rates that are lower than those specified depending on the amount, terms, collateral and credit worthiness.

For more information contact:

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(Forms available on Web)

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